

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Round Ground Metals, Inc.,

Plaintiff,

v.

Ascend Aerospace LLC,

Defendant.

Case No.: 25-cv-5570

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Round Ground Metals, Inc. ("RGM"), by and through its undersigned attorneys, Foley & Lardner LLP, alleges and states as for its Complaint against Ascend Aerospace LLC ("Ascend"), on knowledge as to its own actions, and otherwise upon information and belief, as follows:

INTRODUCTION

1. RGM brings this breach of contract action to recover \$109,290.34, plus interest, attorneys' fees and costs, resulting from Ascend's material breaches of RGM's terms of sale and the payment agreement between the parties under which Ascend was required to timely make all payments for goods RGM supplied.

2. The parties' relationship is governed by RGM's Terms of Sale (the "Terms") as well as a July 25, 2024 Payment Agreement (the "Agreement"). RGM issued a series of invoices subject to the Terms for goods it supplied to Ascend.

3. By July 2024, Ascend had failed to timely make payments for the goods RGM supplied, resulting in an outstanding balance of \$95,937.44. The parties entered into the

Agreement which specified a payment schedule that would resolve the outstanding balance by December 2024.

4. Ascend resolved the over \$95,000 outstanding balance by the end of 2024. Ascend received new products from RGM beginning January 2025 and was invoiced accordingly.

5. By April 2025, Ascend's outstanding balance totaled \$109,290.34, excluding interest, attorneys' fees, and costs.

6. RGM properly notified Ascend of its material breaches on April 28, 2025 and gave Ascend five (5) business days to become current.

7. Ascend failed to make any payments to remedy its outstanding balance.

8. RGM now files this suit to recover damages, costs, and attorneys' fees for Ascend's breach of the Terms of Sale, breach of the Payment Agreement, breach of the implied covenant of good faith and fair dealing, and claim for account stated.

PARTIES

9. Plaintiff Round Ground Metals, Inc. is a metal fabrication corporation that is incorporated in Illinois and has its principal place of business in Hanover Park, Illinois. Accordingly, RGM is considered a citizen of the State of Illinois for purposes of diversity jurisdiction.

10. Upon information and belief, Ascend Aerospace LLC is an aerospace production and automation assembly limited liability corporation that is manager managed and incorporated in New Hampshire with has its principal place of business in Claremont, New Hampshire. The sole managers of the company are Edward C. Farris and Anthony Baranello. Both Managers' business addresses are located in Claremont, New Hampshire. Accordingly, Ascend is considered a citizen of the State of New Hampshire for purposes of diversity jurisdiction.

JURISDICTION AND VENUE

11. This Court possesses subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1), because complete diversity of citizenship exists between Illinois citizen RGM and New Hampshire citizen Ascend, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

12. This Court has specific personal jurisdiction over Ascend pursuant to Federal Rule of Civil Procedure 4(k)(1). The exercise of personal jurisdiction comports with due process and is otherwise proper because Ascend purposefully availed itself of the benefits of the jurisdiction as Ascend conducts substantial business on an ongoing basis in this district, including the specific business at issue between RGM and Ascend. In addition, the Terms and Agreement in dispute contain an express clause identifying the courts of the State of Illinois as the exclusive jurisdiction in which to hear disputes arising from the Agreement and a waiver of any objections to jurisdiction in those Courts. The Terms and Agreement also contain an express clause establishing the governing law to be the laws of the State of Illinois. *See Ex. 1*, at 1 (“Offer, Governing Provisions and Cancellation”), *Ex. 2*, at § 7.

13. Venue is proper in this district under 28 U.S.C. § 1391(b)(2), in that a substantial part of the events or omissions giving rise to the claim occurred in this district.

14. Venue is proper in this district under 28 U.S.C. § 1391(b)(3), in that Ascend Aerospace LLC is subject to personal jurisdiction in this district with respect to this action because the subject Contract that is the focus point of this dispute identifies the exclusive venue as any court within the State of Illinois, and there is no other district in which the action may otherwise be brought.

FACTUAL BACKGROUND

15. As early as November 20, 2023, RGM has manufactured and supplied certain goods for Ascend in exchange for payment.

16. Ascend submitted purchase orders to RGM which reflected the details of the requested sale of goods.

17. Upon shipment of the goods, RGM submitted invoices (“Invoices”) to Ascend which reflected the corresponding payment amounts owed to RGM.

18. The Invoices were subject to RGM’s Terms.¹

19. The Terms state, “THE AGREEMENT AND ANY DISPUTE ARISING HEREFROM WILL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE SUBSTANTIVE AND PROCEDURAL LAW OF THE STATE OF ILLIONIS AND THE U.S. (WITHOUT REFERENCE TO PRICNIPLES OF CONFLICTS OF LAWS).” *See Ex. 1*, at 1 (capitalization in original).

20. The Terms further state, “Seller’s payment terms are net thirty (30) days from date of invoice. Seller reserves the right to charge a finance charge of the lessor of (i) up to two (2) percent over the prime rate; or (ii) the highest rate permitted by applicable law, on the amount of the invoice which remains unpaid thirty (30) days after the invoice date.” *Id.* at 2.

21. On or about July 25, 2024, RGM and Ascend entered into a valid and enforceable contract, the Agreement, regarding Ascend’s outstanding payments owed to RGM totaling \$95,937.44.²

22. Ascend signed the Agreement on July 29, 2024. *See Ex. 2.*

¹ A true and accurate copy of the Terms is attached hereto as **Exhibit 1**.

² A true and accurate copy of the Payment Agreement is attached hereto as **Exhibit 2**.

23. The Agreement, and any related dispute thereof, is governed by the laws of the State of Illinois. *See id.*, at ¶ 7.

24. Ascend agreed to pay RGM the full amount of the outstanding balance owed according to the payment schedule set forth in exhibit B to the Agreement, with final payment due by December 27, 2024. *Id.* at ¶ 2.

25. Ascend agreed that if it failed to timely make any payments, the entire outstanding balance, plus interest, would immediately become due and RGM would be permitted to take any action permitted by law to collect the monies. *Id.* at ¶ 5.

26. Ascend further agreed that if it defaulted on the Agreement, RGM would be entitled to recover all costs and attorneys' fees incurred in connection with collection the outstanding balance. *Id.* at ¶ 6.

27. On April 28, 2025, counsel for RGM notified Ascend it was in breach of the Agreement, with an outstanding amount due of \$109,290.34, excluding interest, fees, and other recoverable costs (the "Notice of Breach").³

28. Ascend's overdue Invoices⁴ are as follows:

Sales Order	Invoice	Due Date	Balance (\$)	*Days Late
0351891-001	561410	1/6/2025	2,708.93	109
0351890-001	561409	1/6/2025	19,850.55	109
0351865-002	562198	1/29/2025	6,113.86	86
0350967-001	562322	1/31/2025	33,547.40	84
0350967-001	563348	3/5/2025	15,660.57	51
0350967-001	563340	3/5/2025	31,409.03	51
		Total:	109,290.34	

**As of 4/28/2025*

³ A true and accurate copy of the Notice of Breach is attached hereto as **Exhibit 3**.

⁴ A true and accurate copy of the overdue Invoices is attached hereto as **Exhibit 4**.

29. RGM demanded immediate payment of the full outstanding balance within five (5) business dates from the date of the letter. *See Ex. 3.*

30. Despite multiple prior communications and RGM's repeated good faith efforts to work with Ascend, no payment has been received to cure the default.

31. At no point has Ascend objected to the accuracy of the total amount owed.

32. Ascend has failed to pay the outstanding balance of \$109,290.34 due and owing under the terms of the Agreement.

COUNT I – BREACH OF CONTRACT
(THE TERMS OF SALE)

33. RGM incorporates the allegations in preceding paragraphs 1 through 32 as though fully set forth herein.

34. The Invoices are governed by the Terms of Sale, which impose obligations on Ascend and were supported by consideration.

35. RGM fully performed all of its obligations under the Terms.

36. As detailed in the preceding paragraphs, Ascend materially and substantially breached the Payment provision of the Terms by failing to timely pay RGM the amounts totaling \$109,290.34.

37. Ascend has also breached the covenant of good faith and fair dealing implicit in all contracts for its actions in failing to timely provide payment to RGM despite RGM's repeated and good faith requests.

38. As a direct and proximate result of Ascend's material and substantial breach of the Terms, RGM has suffered damages in the amount of \$109,290.34.

39. Interest related to this breach continues to accrue daily.

40. By reason of the foregoing, Ascend is liable in the amount of One Hundred and Nine Thousand, Two Hundred and Ninety Dollars and Thirty-Four Cents (\$109,290.34), plus interest, attorneys' fees, and costs.

41. RGM seeks judgment as hereafter set forth.

COUNT II – BREACH OF CONTRACT
(THE PAYMENT AGREEMENT)

42. RGM incorporates the allegations in preceding paragraphs 1 through 41 as though fully set forth herein.

43. RGM and Ascend entered into the Agreement, which impose obligations on Ascend and were supported by consideration.

44. RGM fully performed all of its obligations under the Agreement.

45. As detailed in the preceding paragraphs, Ascend materially and substantially breached the Agreement by failing to timely pay RGM the amounts totaling \$109,290.34.

46. Ascend has also breached the covenant of good faith and fair dealing implicit in all contracts for its actions in failing to timely provide payment to RGM despite RGM's repeated and good faith requests.

47. As a direct and proximate result of Ascend's material and substantial breach of the Agreement, RGM has suffered damages in the amount of \$109,290.34.

48. Interest related to this breach continues to accrue daily.

49. By reason of the foregoing, Ascend is liable in the amount of One Hundred and Nine Thousand, Two Hundred and Ninety Dollars and Thirty-Four Cents (\$109,290.34), plus interest, attorneys' fees, and costs.

50. RGM seeks judgment as hereafter set forth.

COUNT III – CLAIM FOR ACCOUNT STATED

51. RGM incorporates the allegations in preceding paragraphs 1 through 50 as though fully set forth herein.

52. RGM performed all of its obligations under the Agreement, including supplying goods to Ascend.

53. RGM rendered statements of account to Ascend reflecting the goods provided and the amounts due.

54. The final statement of account, dated April 28, 2025, reflects a total amount due of \$109,290.34. *See Ex. 3.*

55. Ascend failed to object to the accuracy of the statement of account within a reasonable time after receipt and retained the benefit of RGM's goods.

56. By failing to object and through the course of dealing, Ascend assented to the correctness of the statement of account and is now indebted to RGM in the amount of \$109,290.34.

57. RGM has been damaged by Ascend's breach in the amount of \$109,290.34, plus applicable interest, costs, and attorneys' fees as permitted by law and contract.

58. By reason of the foregoing, Ascend is liable in the amount of One Hundred and Nine Thousand, Two Hundred and Ninety Dollars and Thirty-Four Cents (\$109,290.34), plus interest, attorneys' fees, and costs.

59. RGM seeks judgment as hereafter set forth.

RELIEF REQUESTED

WHEREFORE, Plaintiff Round Ground Metals, Inc. respectfully requests this Court enter judgment in its favor and against Defendant Ascend Aerospace LLC and order the following relief:

- A. An award of monetary damages in favor of Plaintiff Round Ground Metals, Inc., sufficient to compensate it for all forms of economic loss related to Ascend's breaches in an amount no less than One Hundred and Nine Thousand, Two Hundred and Ninety Dollars and Thirty-Four Cents (\$109,290.34), plus interest, attorneys' fees, and costs which continue to accrue;
- B. An award of prejudgment and post-judgment interest as allowed by law;
- C. An award of legal fees, interest, and other costs related to this matter; and
- D. Any and all other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff Round Ground Metals, Inc. requests a jury trial on all issues so triable.

Dated: May 19, 2025

Respectfully submitted,

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